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Paper #8

RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2171

Docket No.: 826.1722

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Naoya FUJISAKI

Serial No. 09/819,701

Confirmation No. 3142

Filed: March 29, 2001

Group Art Unit: 2171 Technology Center 2100

Examiner: E. LEROUX

For: FILE SYSTEM ASSIGNING A SPECIFIC ATTRIBUTE TO A FILE, A FILE
MANAGEMENT METHOD ASSIGNING A SPECIFIC ATTRIBUTE TO A FILE, AND A
STORAGE MEDIUM ON WHICH IS RECORDED A PROGRAM FOR MANAGING
FILES

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FEB 18 2004

REQUEST FOR RECONSIDERATION AND EXAMINER INTERVIEW

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: **BOX AF**

Sir:

This is in response to the Office Action mailed October 7, 2003, having a period for response set to expire on January 7, 2004. A Petition for a one-month extension of time, together with the requisite fee, is submitted herewith, making the period for response end on February 7, 2004.

In the October 7, 2003 Office Action, the Examiner noted that claims 1-17 were pending in the application; rejected claims 1-9, 11 and 15-17 under 35 U.S.C. § 102(b); and rejected claims 10 and 12-14 under 35 U.S.C. § 103(a). In rejecting the claims, U.S. Patents 4,945,475 to Bruffey et al.; 5,564,119 to Krawchuk et al.; 5,764,972 to Crouse et al.; 5,778,389 to Pruett et al.; and 6,018,744 to Mamiya et al. were cited. Claims 1-17 remain in the case. The Examiner's rejections are traversed below.

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PRIOR ART REJECTIONS

The rejection of the claims in items 2-7 on pages 2-5 of the October 7, 2003 Office Action was substantially identical to the rejection of the claims in the June 10, 2003 Office Action, except that "indicating a policy on which file management is based" was added on page 2, lines 10-11, and a few other words or letters were added or deleted. In short, the rejection was not modified in response to the arguments in the Amendment filed by certificate of mail on September 10, 2003 and received by the U.S. Patent and Trademark Office on September 12, 2003.

The Response to Arguments in items 8-9 on pages 6-11 of the October 7, 2003 Office Action did little more than repeat the rejection set forth on pages 2-5. In response to the argument in the September 10, 2003 Amendment that Bruffey et al. contains no suggestion of storing "attribute data indicating a policy on which file management is based" (e.g., claim 1, lines 3-4) corresponding to "path information of a directory" (e.g., claim 1, line 4), column 3, lines 10-55, and column 6, lines 15-42 of Bruffey et al. were cited. In addition to quoting about 75 lines of the cited portions of Bruffey et al., the October 7, 2003 Office Action asserted that "at least Figure 2 which illustrates the architecture of the Hierarchical Filing System (HFS) of the present invention and as embodied in Figure 6 reads on the claim 1 limitation 'a setting unit setting policy attribute data indicating a policy on which file management is based.'" (Office Action, p. 7, lines 27-30).

First, it is noted that the above-quoted statement from the October 7, 2003 Office Action does not address the limitation quoted from claim 1, line 4 in the September 10, 2003 Amendment, and also quoted above. Taking claim 1 as an example, the setting unit does not merely set policy attribute data "indicating a policy on which file management is based," but it does so "in correspondence with path information of a directory". Second, it is also noted that the HFS discussed in the last full paragraph on page 7 of the Office Action is not part of the "present invention", i.e., the subject application, Serial No. 09/819,701, but rather what was disclosed in Bruffey et al.

More importantly, the Response to Arguments section of the October 7, 2003 Office Action did not provide an explanation of **why** the rejection was being maintained. The reasons may be clear to the Examiner, but they were not explained in the Office Action. The Applicant has no way of knowing what "policy" the Examiner sees in the cited portions of Bruffey et al., or how that policy is set "in correspondence with path information of a directory." As discussed in

the September 10, 2003 Amendment, nothing has been found by the Applicant in Bruffey et al. "suggesting the storage of any data as part of the root directory name and key or anywhere else that would **indicate a policy on which file management is based**" (Amendment, page 7, lines 22-23, emphasis added).

REQUEST FOR EXAMINER INTERVIEW

As discussed during the telephonic Examiner Interview on February 9, 2004, the undersigned strongly believes that the most efficient way to provide an explanation of how Bruffey et al. meets the limitations recited in the claims and discussed in the September 10, 2003 Amendment would be an in-person Examiner Interview. The Applicant is willing to make further amendments to more clearly distinguish over Bruffey et al.; however, without a better understanding of what in Bruffey et al. needs to be distinguished it is impossible to make such amendments. Alternative language could be discussed at the Examiner Interview.

It is believed that continuing the examination of this application solely by communication in writing will result in extending the period of examination as the positions will become clear only in piecemeal fashion. The undersigned strongly believes that progress would be much faster if an in-person Examiner Interview is held, preferably **before April 7, 2004**, the end of the statutory period for response.

SUMMARY

For the reasons set forth in the September 10, 2003 Amendment which have not been rebutted by any explanation of how the prior art teaches the limitations recited in the independent claims, it is submitted that the cited prior art does not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-17 are in a condition suitable for allowance. Scheduling of an Examiner Interview and subsequent reconsideration of the claims are earnestly solicited.

If there are any additional fees associated with filing of this Request for Reconsideration, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 2/9/04

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CERTIFICATE UNDER 37 CFR 1.8(a)
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
on 2/9/2004
STAAS & HALSEY Richard A. Gollhofer
By: Richard A. Gollhofer
Date: 2/9/04



S&H Form: (10/03)

**REPLY/AMENDMENT
FEE TRANSMITTAL**

Attorney Docket No.	826.1722
Application Number	09/819,701
Filing Date	March 29, 2001
First Named Inventor	Naoya FUJISAKI
Group Art Unit	2171

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Technology Center 2100

AMOUNT ENCLOSED

110.00

Examiner Name

E. LEROUX

FEE CALCULATION (fees effective 10/01/03)

CLAIMS AS AMENDED	Claims Remaining After Amendment	Highest Number Previously Paid For	Number Extra	Rate	Calculations
TOTAL CLAIMS	17	- 20 =	0	X \$ 18.00 =	\$ 0.00
INDEPENDENT CLAIMS	5	- 5 =	0	X \$ 86.00 =	0.00
Since an Official Action set an <u>original</u> due date of <u>January 7, 2004</u> , petition is hereby made for an extension to cover the date this reply is filed for which the requisite fee is enclosed (1 month (\$110); 2 months (\$420); 3 months (\$950); 4 months (\$1,480); 5					110.00
If Notice of Appeal is enclosed, add (\$330.00)					
If Statutory Disclaimer under Rule 20(d) is enclosed, add fee (\$110.00)					
Information Disclosure Statement (Rule 1.17(p)) (\$180.00)					
Total of above Calculations =					\$ 110.00
Reduction by 50% for filing by small entity (37 CFR 1.9, 1.27 & 1.28)					
TOTAL FEES DUE =					\$ 110.00

(1) If entry (1) is less than entry (2), entry (3) is "0".

(2) If entry (2) is less than 20, change entry (2) to "20".

(4) If entry (4) is less than entry (5), entry (6) is "0".

(5) If entry (5) is less than 3, change entry (5) to "3".

CERTIFICATE UNDER 37 CFR 1.8(a)

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- ☒ Check enclosed as payment.
- ☐ Charge "TOTAL FEES DUE" to the Deposit Account No. below.
- ☐ No payment is enclosed and no charges to the Deposit Account are authorized at this time (unless specifically required to obtain a filing date).

on 2/9/04, 2004
STAAS & HALSEY
By: Richard A. Gollhofer
Date: 2/9/04

GENERAL AUTHORIZATION

- ☒ If the above-noted "AMOUNT ENCLOSED" is not correct, the Commissioner is hereby authorized to credit any overpayment or charge any additional fees necessary to:
- Deposit Account No. 19-3935
- Deposit Account Name STAAS & HALSEY LLP
- ☒ The Commissioner is also authorized to credit any overpayments or charge any additional fees required under 37 CFR 1.16 (filing fees) or 37 CFR 1.17 (processing fees) during the prosecution of this application, including any related application(s) claiming benefit hereof pursuant to 35 USC § 120 (e.g., continuations/divisionals/CIPs under 37 CFR 1.53(b) and/or continuations/divisionals/CPAs under 37 CFR 1.53(d)) to maintain pendency hereof or of any such related application.

SUBMITTED BY: STAAS & HALSEY LLP

Typed Name Richard A. Gollhofer

Reg. No. 31,106

Signature

Richard A. Gollhofer

Date

2/9/04